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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/104,752 06/25/98 SCHAER

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EXAMINER

COHEN, L

ART UNIT

PAPER NUMBER

3739

DATE MAILED:

09/20/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/104,752

Applicant(s)
Schaer

Examiner
Lee S. Cohen

Group Art Unit
3739



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1, 2, and 4-30 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1, 2, and 4-30 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 4-8, 13, 17-22, and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 fails to set forth a structural association between the conductors and the electrodes and/or temperature sensors. Claim 8 is unclear to which electrode is being referenced since plural electrodes have been recited. Claim 13 - reference to a second array is vague since a first array has not been set forth. Claims 18 and 20 are rejected as claim 1. Also, in claim 20, the placing and delivering steps are inconsistent since only one electrode is placed but energy is delivered to two electrodes. Claim 28 inferentially recites the energy source.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

Claims 23, 24, and 28 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Panescu et al. The basic device is disclosed by Panescu et al. Applicant's attention is directed to columns 5-8 and , in particular, the Figure 9 embodiment. Panescu et al also discloses at column 6, lines 28-32 that the device can be as small as 4 French in diameter.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 9-22, and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Panescu et al in view of Littmann et al. The basic device is disclosed by Panescu et al. Applicant's attention is directed to columns 5-8 and , in particular, the Figure 9 embodiment. Panescu et al also discloses at column 6, lines 28-32 that the device can be as small as 4 French in diameter. Littmann et al discloses the use of braided helical conductors as well as the particular core and jacket structure to have been well known in the art. Littmann et al also discloses the use of a distal tip coil member. Given Littmann's teachings, it would have been obvious to the skilled artisan to incorporate these features in the Panescu et al device to render it more flexible and maneuverable.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Panescu et al in view of Littmann et al as applied to claim 1 above, and further in view of either Kohno et al or Nashef et al. The addition of a conducting member to a temperature sensor to improve its performance is well known in the art as disclosed by Kohno et al and Nashef et al. Accordingly, it would have been obvious to incorporate such a feature in Panescu et al. Each of the references also discloses the use of annular conducting bands as a design expedient.

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Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Panescu et al in view of Littmann et al as applied to claim 1 above, and further in view of Fleischman. The use of helical coil electrodes would have been an obvious design expedient in light of Fleischman's teaching at column 8, lines 31-51.

Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Panescu et al in view of either Kohno et al or Nashef et al. The addition of a conducting member to a temperature sensor to improve its performance is well known in the art as disclosed by Kohno et al and Nashef et al. Accordingly, it would have been obvious to incorporate such a feature in Panescu et al. Each of the references also discloses the use of annular conducting bands as a design expedient.

Claim 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The other cited references disclose similar devices.

Any inquiry concerning this communication should be directed to Lee S. Cohen at telephone number (703) 308-2998.


Lee Cohen
Primary Examiner